THE TRAVANCORE CHILD MARRIAGE RESTRAINT BILL.

PRESIDENT: Clause 8 was under consideration when the House rose last time. Mr. E. Subramonia Iyer had moved Amendment No. 10.

MR. PUTHUPALLI S. KRISHNA PILLAI: With regard to this matter I wish to bring to your notice that a controversy was raised whether after accepting Amendemnt No. 9..... .....

PRESIDENT: I see that the Deputy President has given a ruling.

MR. PUTHUPALLI S. KRISHNA PILLAI: The Ruling then given was :

> "The point of order is whether the amendment of Mr. E. Subramonia Iyer on the clause as amended by Srimati Narayani Amma and carried should be allowed to be moved. In considering whether this amendment can be allowed, I am governed by the provisions of Standing Order Nos. 23 and 25. Standing Order No 23 lays down that a motion cannot be raised on a substantially identical one on which the Assembly has already given its decision in the same session. Now, it has to be considered whether the motion that is proposed by Mr. E. Subramonia Iyer raises a question substantially identical with the one on which the Assembly has given a decision in the matter of Srimati Narayani Amma. For my part, I must rule that the motion of Mr. E. Subramonia Iyer does not raise a question substantially identical as recorded on the motion of Srimati Narayani Amma".

Under Standing Order 25, the Deputy President ruled that there was no objection. But Standing Order No. 25, according to me stands in the way of allowing discussion of this amendment. Standing Order No. 25 Clause 4 is this :

> "An amendment on a question must not be inconsistent with any previous decision on the same question given at the same stage of any Bill or motion".

PRESIDENT: The principle of *stare decisis* is applicable to this matter. The Deputy President has prefaced his observations with these words: "In considering whether this amendment can be allowed, I am governed by the provisions of Standing Order Nos. 23 and 25." It must be presumed that he has applied his mind to Standing Order Nos. 23 and 25. I am not going to rule out the discussion.

MR. E. SUBRAMONIA AIYAR. I crave the indulgence of the House to withdraw my amendment.

The amendment, by leave, was withdrawn.

MR. P. S. NILAKANTA AIYAR: I move that in Clause 8, add the following at the end :

> "and upon deposit of rupees hundred for payment of any compensation which the Court May award to the accused under section 227 of the Criminal Procedure Code. This amount or the balance that is left, if any, after payment of compensation may be returned to the party making the deposit if no such compensation is awarded or if a balance is left after making the payment as the case may be."

Clause 8.

MR. P. S. NILAKANTA AIYAR (*Co-opted*): I find another amendment to Mr. E. Subramonia Ayer's name, namely amendment No. 19 to the effect that—

LIBRARY ARCHIVES Kerala Legislative Assembly

Add the following as Clause 11:

"11 Our Government may by notification in the Government Gazette exempt any community from the operation of this Regulation and shall on the application made in that behalf within six months of the passing of this Regulation, so exempt any Brahmin family in Travancore."

I suppose that these two amendments may be taken together. If this is moved I think there is no necessity of moving my amendment.

MR. E. SUBRAMONIA AIYAR: Sir, I claim permission of the House to add a..... ...

PRESIDENT: Order, order. The honourable member should surely raise his voice.

MR. E. SUBRAMONIA AIYAR: Sir, I crave permission of the House at this stage to move the amendment standing to my name, *viz.*, amendment No. 19.

PRESIDENT: Order, order. What has happend to amendment No. 9?

If the Honourable member wishes to take any amendment out of the natural order he must have the leave of the House and therefore he must formally apply for permission for adducing special reasons which have to be indicated for any special procedure that he may take.

MR. E. SUBRAMONIA AIYAR: Sir, I make formal application and request that permission be given to move the amendment No. 19 on the basis of the fact that if that amendment is carried or otherwise dealt with I do not propose to move any other amendment standing in my name so far as this Bill is concerned. That is the most important amendment in my view. So far as that amendment is concerned it is fundamental whether power should be given to the community or any particular family that make the application to conduct the Child Marriage so that at least the present generation, if it finds a necessity in exceptional cases, may have recourse to this safeguard.

PRESIDENT: Order, order. The position at which we have arrived is this, we have gone up to clause 8 and there are no further amendments appertinent to clause 8. So I shall have to put clause 8 to the vote and thereafter the Honourable member Mr. E. Subramonia Aiyar may move for the leave of the House to press amendment No. 19. I shall take the sense of the House on the matter.

The question whether clause 8 stands part of the Bill was put and carried.

Clause 8 was added to the Bill.

MR. E. SUBRAMONIA AIYAR: Sir, I crave for permission of the House to consider amendment No. 19 standing to my name. As I have submitted this is the fundamental provision so far as the Bill is concerned.

PRESIDENT: Order, order. First the question of procedure must be dealt with before the merits are discussed. The amendment is moved. Is it seconded?

LIBRARY ARCHIVES Kerala Legislative Assembly

MR. P. S. NILAKANTA AIYAR: I second it.

PRESIDENT: The amendment is moved and seconded.

The question before the House is that permission may be granted to the mover to move amendment No. 19 as the next in order, on the ground he has urged that if that amendment be either carried or defeated he and the other sponser of the numerous amendments will not press those amendments or that they might be become needless.

The question was put to vote and carried.

PRESIDENT: Mr. E. Subramonia Aiyar will now proceed.

MR. E. SUBRAMONIA AIYAR: Sir, my amendment is as follows:—

Add the following as Clause 11:

"Our Government may be notification in the Government Gazette exempt any community from the operation of this Regulation and shall on application made in that behalf within six months of the passing of this Regulation, so exempt any Brahmin family in Travancore."

PRESIDENT: I find a most uncharacteristic hesitation on the part of the Honourable member.

MR. E. SUBRAMONIA AIYAR: With the President's permission I may be permitted to speak a little low. I would request the House to take away the word 'Brahmin' Sir, I do not propose to discuss the matter at great length. The discussion of the several sections on this Bill at prior stages has revealed according to me the main points or the main reasons which induce me to make this request to the House. It is enough for me to say that exceptional cases may arise when marriages may have to be performed where the parties to the marriage had not reached the age given in this Bill. Fourteen is the age fixed for the girl and eighteen is the age fixed for the boy. It is not every day that cases arise where the girl is below fourteen or the boy below eighteen. I may assure you that in the majority of instances the age of the boy will be above eighteen. In exceptional cases I may add that it may become necessary to marry a girl who has not reached the age of fourteen. I do not think I shall be out of place if I make a reference to myself at this stage. I had been educating a boy at my own expense in order that I may find a proper match for my girl. I do belong to the Brahmin community, but I belong to a section of the Brahmin community where you can count persons of influence and education on the fingers. Probably, very few know to which particular section of the Brahmin community I belong. But do not take me to be a Mukkaniyan Brahmin.

PRESIDENT: Order, order. Need we go into these details for the purpose of the Travancore Child Marriage Restraint Bill?

MR. E. SUBRAMONIA AIYAR: Sir, I am only referring to an instance.

MR. T. C. KESAVA PILLAI: May I know whether any child marriage took place in the Brahmin community since the last session of the Assembly?

MR. E. SUBRAMONIA AIYAR: I shall remove all apprehensions in the mind of my honourable friend. He knows that a child marriage has taken place. I am only pointing out the difficulty I have in selecting a

LIBRARY ARCHIVES Kerala Legislative Assembly

bridegroom from my community. It is rather an arduous or rather an impossible task. I had to look for a boy and educate him. He is reading in the B. A. (Hons.) class. My child just completed 10 and being afraid that I may be tabooed, I have conducted the marriage before the Bill came into law. Such exceptional cases may arise. I am requesting the House to make provision for such exceptional and not for every case. If anybody whishes to avail himself of such concession, leave it to the Government to except the community or the particular family. Let the patriarch of the family make an application not a few days before the marriage but within six months of the passing of this Act. If anybody is desirous of getting exempted let him come forward and make the application for exemption.

MR. C. JEBAMONY NADAR : May I know whether the exemption would be permanent? If an exemption is granted is it to continue for ever?

MR. E. SUBRAMONIA AIYAR : If an exemption is granted to a family certainly the exemption can be availed of by any member of the family from generation to generation. But in operation it will confine itself to the particular persons who made that application.

PRESIDENT : I presume it is the agnatic family.

MR. E. SUBRAMONIA AIYAR : Yes. So I do not want to discuss that aspect of the matter. I am only requesting that an apportunity might be given to persons placed in my situation to avail themselves of an opportunity of getting an exemption before hand and it is not always the case that exemption will be used.

MR. M. SIVATHANU PILLAI : May I know why the exemption should be given for a particular community?

MR. E. SUBRAMONIA AIYAR : In moving an amendment a comprehensive method must be taken, the change in wording should be noted. "Our Government may exempt." So far as the family is concerned it make an application for the grant of exemption and it is open to Government to exempt any particular community in the circumstances of that community make it desirable to grant that exemption. The latter part of the amendment, namely that if an application is made in their behalf within six months of this law coming into force.....

PRESIDENT : Has the Honourable Member any idea as to whether any other community other than his own has expressed its desires for exemption? Is he aware of any other community?

MR. E. SUBRAMONIA AIYAR : Sir, the other day when the matter was being discussed it was pointed out that the Vishnava community, wanted exemption....

LIBRARY ARCHIVES Kerala Legislative Assembly

MR. C. JEBAMONY NADAR : What I submitted then was that the Vishnava community had this idea in mind ?

PRESIDENT : If, as a matter of fact any community has made any application or evidenced any such desire, will the Honourable member consider the advisability to omit the word 'Brahmin' and proceed with the amendment ?

MR. E. SUBRAMONIA AIYAR : Sir, that word may be omitted. "Exempt any family" is enough. So I do not propose to discuss the matter any further. I would request the House to consider the matter from all points of view which may commend itself to them and support me in carrying out this amendment.

MR. M. SIVATHANU PILLAI : May I know whether the Honourable member is willing to substitute "may" instead of "shall"

MR. E. SUBRAMONIA AIYAR : I shall be satisfied, if the best cannot be had, with the next best. I am for "shall." But if "shall" cannot be had it is a matter for the House.

PRESIDENT : Order, order. What is the amendment which the Honourable member is putting forward ?

MR. E. SUBRAMONIA AIYAR . "Our Government may, by notification in the Government Gazette, exempt any family in Travancore from the operation of this Act, on application made in that behalf within six months of the Passing of this Act."

PRESIDENT : Is the amendment seconded ?

MR. P. S. NILAKANTA AIYAR : I second it. Sir, I shall say one or two words in this matter. There are provisions to exempt particular persons and families in other native States like Indore, Gualior and other places where similar legislation was passed. So this exempting clause is not without a precedent. In the case of the Nair and Ezhava Acts also there is provision for exempting particular families from the operation of particular provisions in the same. So there is precedent here and elsewhere, for exemptions to be made in a piece of social legislation. With these words I second this proposition.

PRESIDENT : Any other Honourable member desiring to make any observation ?

SRIMATI T. NARAYANI AMMA : Sir, I oppose the amendment. It goes against the very principle of this Bill which has already been accepted by this House. I am anxious, Sir, that the benefit of an important piece of legislation like this should not be whittled down by such loop-holes as are sought to be introduced by this amendment. I oppose the amendment.

The amendment was put to vote and carried.

SRIMATI T. NARAYANI AMMA : Sir, I demand a poll.

A poll was accordingly taken with the following result.

LIBRARY ARCHIVES Kerala Legislative Assembly

AYES—46.

1. P. Khan Bahadur Abdul Karim
2. Mr. Kottalil P. Abraham
3. ,, P. C. Adichan
4. Sahib Bahadur V. Chandamiah
5. Mr. M. L. D'Cruz
6. ,, K. Dominic Joseph
7. ,, E. E. Pandarathil
8. ,, D. Francis
9. ,, M. A. Gopala Menon
10. ,, M. Govinda Pillai
11. ,, N. John Joseph
12. ,, M. P. Joseph
13. ,, N. V. Joseph
14. ,, Joseph Vithayathil
15. ,, K. C. Karunakaran
16. ,, M. Kesava Panickar
17. M. G. Kesava Pillai
18. ,, T. C. Kesava Pillai
19. ,, T. T. Kesavan Sastri
20. ,, K. P. Kochukora Tharakan
21. ,, Kaviyoor K. K. Kochukunju
22. ,, Thamarappallil Kochu-Tommen
23. ,, Puthupalli S. Krishna Pillai
24. Mr. N. R. Krishnan
25. ,, A. K. Kumaran Vaidyan
26. ,, Tariathu Kunjithommen
27. ,, Varkala K. Madhavan
28. Sahib Bahadur M. K. Mackar Pillai
29. Mr. P. V. Mathai Chemparathy
30. Sahib Bahadur P. S. Muhamed
31. Mr. K. Narayanaperumal Nadar
32. ,, R. Narayanan Nambootiri
33. ,, P. G. Narayanan Unnithan
34. ,, M. K. Nilakanta Aiyar
35. ,, P. S. Nilakanta Aiyar
36. ,, P. Paramesvaran Pillai
37. ,, M. Ramachandra Rao
38. ,, N. Ramakrishna Pillai
39. ,, Codiveetil C. Ramankunju
40. ,, N. Ramiah Pillai
41. ,, E. Subramonia Aiyar
42. ,, G. B. E. Truscott
43. ,, Puliyoor T. P. Velayudhan Pillai
44. ,, N. Velu Achari
45. ,, G. Velu Pillai
46. ,, P. Vivekanandam

NOES—11.

1. Mr. S. Chattanatha Karayalar
2. Srimati K. Devaki Anthar janam
3. Mr. K. G. Govindan
4. ,, M. L. Janardana Pillai
5. ,, K. Kunju Panickar
6. Mr. S. Narayana Pillai
7. ,, P. Narayana Pillai
8. ,, K. R. Narayanan
9. Srimati T. Narayani Amma
10. Mr. P. Sivarama Pillai
11. ,, R. Sivaraman Nair

NEUTRALS—4.

1. Mr. C. Japamony Nadar
2. ,, Kainikkara M. Padmanabha Pillai
3. Mr. M. Sivathanu Pillai
4. ,, J. W. Tolson

Clause 9.

SRY. T. NARAYANI AMMA: Sir, I beg to move that clause 9 be deleted. This is only a consequential amendment to the amendments made to clauses 7 and 8.

LIBRARY ARCHIVES Kerala Legislative Assembly

SRY. DEVAKI ANTHARJANAM: I Second it.

MR. PUTHUPALLI S. KRISHNA PILLAI: There is no legal objection to clause 9 being deleted.

The amendment was put to vote and carried.

Clause 9 was deleted.

Clause 10.

SRY T. NARAYANI AMMA: Before I move amendment No. 15 I may be allowed to move amendment 16. Because that is consequential to the deletion of clause 9.

PRESIDENT: Yes.

SRY. T. NARAYANI AMMA: Sir, I beg to move that in clause 10 sub clause (i) the following be inserted before the words 'at any time';

"When the Court takes cognizance of any offence under this Regulation upon a complaint, it may." and omit the words "the Court may" between "accused" and "for reasons to be" and renumber Clause 10 as Clause 9.

Sir, this also is only a consequential amendment. The Court can take cognizance of an offence either on a complaint being made, or on its own motion when the complaint is made, the Court examines the complainant first and if the Court is satisfied that a *prima-facie* case is made out it may not ask the complainant to furnish security. But if thinks that the complaint is a frivolous one it may call for security. It is to make this point clear that I move this amendment.

SRY. DEVAKI ANTHARJANAM: I second it.

MR. PUTHUPALLI S. KRISHNA PILLAI: I see no objection Sir.

The question before the House that clause 10 sub-clause (i) do from part of the bill was put to vote and carried.

The amendment was put to vote and carried.

SRY. T. NARAYANI AMMA: I beg to move that the following be substituted for clause 10 (i)

The Court may, if satisfied from information laid before it through complaint or otherwise, that a child marriage in contravention of this Regulation, has been arranged or is about to be solemnised, issue an injunction against any of the persons mentioned in Clauses 3, 4, 5, and 6, prohibiting such marriage;

Provided that no injunction under the sub-clause shall be issued against any person unless the court has previously given notice to such person and has afforded him an opportunity to show cause against the issue of the injunction:

Provided also that the Court may on the application of any person aggrieved rescind or alter any order made under this sub-clause".

(ii) Whoever knowing that an injunction has been issued against him under sub-clause (i) of this Clause disobeys such injunction, shall be punished with imprisonment of either description, for a term which may extend to three months, or with fine which may amount to one thousand rupees, or with both."

LIBRARY ARCHIVES Kerala Legislative Assembly

This is an amendment for the addition of a new clause empowering the court to issue injunction to the parties mentioned in clauses 3 to 6 prohibit ng such marriages. It will serve the very useful purpose, of preventing a child marriage. Sir, prevention it 'is rightly said, is better than cure.

PRESIDENT: There is no question of cure in the present instance. (*Laughter*).

SRY. T. NARAYANI AMMA: If a contemplated child marriage can, by a timely injunction be prevented it is much better than punishing the parties after the marriage has taken place. As the Bill stands, rich persons, may with impurity offend against the law and pay the fine. It is to prevent such wanton breaches of law by rich persons that this amendment is proposed.

Safeguards provided in this clause, are, the issue of a notice and giving opportunity to be heard before issue of injunction. When there is exparte-injunction it can be altered on the application of the aggrieved party. The punishment for disobeying an injunction should be more severe than that of merely committing an offence under this Act. After the passing of this amendment in the Assembly there have been several instances of child marriages being prevented under this clause. I shall now read the report of the (Hindu) dated 29th June 1938.

BENARES WEDDING POSTPONED.

CHILD MARRIAGE RESTRAINT ACT.

(*Associated special service.*)

BENARES, June 29.

A marriage ceremony was postponed at Benares, and the party of the bridegroom which had arrived at the bride's house had to return, at the order of the City Magistrate of Benares under the Child Marriage restraint Act.

The father of the bride stated before the Magistrate that his daughter was 14 years of age, that her marriage was to take place the same day, that the bridegroom had already arrived and that the permission for the marriage ceremony should be given immediately. The bride was examined by the Civil Surgeon who declared that she was 13 years of age. Thereupon, the Magistrate ordered that the ceremony could not take place for one year more under the Child Marriage Restraint Act.

The Magistrate had recently ordered the postponement of the wedding of another girl, aged eleven.

Under these circumstances, I hope the House will, concede the extreme importance and usefulness of this provision and will unhesitatingly accept this amendment.

SRY. DEVAKI ANTHARJANAM: I second it.

LIBRARY ARCHIVES Kerala Legislative Assembly

MR. JOSEPH VITHAYATHIL : Sir, It is not clear whether it is the Criminal Court or the Civil Court that is meant by the word 'court' occurring in the amendment.

MR. PUTHUPALLI S. KRISHNA PILLAI : In view of the wording of the previous clauses and of this clause itself it is clear that it is the Criminal Court that is referred to.

PRESIDENT : Apparently Mr. Vithayathils' point is that it is the Civil Court that usually grants injunctions.

MR. JOSEPH VITHAYATHIL : Further Sir, the word 'Court' is not defined in this bill.

MR. M. SIVATHANU PILLAI : The word complaint is there. That makes it clear that it refers to a Criminal Court.

MR. JOSEPH VITHAYATHIL : That relates to a different matter. This amendment deals with injunctions which are ordinarily issued by Civil Courts.

And then Sir, if 'Court' in the amendment means Criminal Court, I have very serious objection to this amendment since it is capable of much mischief. In the first place, the purpose intended to be served by this amendment may not be served at all; because after all, there is nothing to prevent the party from disobeying the injunction order and risking punishment for that also. There is nothing in the provision authorising the court to take such steps as are necessary to enforce the injunction order as we have in the case of provisions for the prevention of public nuisance in the Criminal Procedure Code. As I said, if the party is prepared to undergo additional imprisonment or to pay an additional fine for disobeying the injunction order there is nothing to prevent such a party from celebrating a child marriage. Therefore, the real purpose *i. e.* the prevention of child marriage may not be served by this provision.

There is also another practical difficulty. The injunction has to be issued on information laid before the Magistrate. The important question will be whether the bride has actually completed 14 years of age on the date of the marriage. Even a day less would make the marriage an offence. Therefore that important question of fact has to be gone into by the Court before issuing the injunction order. That has to be decided on evidence. Suppose, the Magistrate goes wrong in the finding on the question of age and issues an injunction order what is the remedy of the party? There is no provision for appeal. In Revision the High Court will not enter into questions of fact. There is also no provision enabling the party to move the Civil Court for getting the injunction order cancelled. The consequence may be very serious. I can understand this provision if it is a Civil Court that is empowered to issue such an injunction order.

I would appeal to the House to imagine the anxiety of the parents and the bride and the bridegroom if this provision becomes law. Till the marriage is actually solemnised they will have to remain in anxiety and fear about some mischievous party moving the Magistrate and

LIBRARY ARCHIVES Kerala Legislative Assembly

causing the issue of an injunction order. It is true that the party has a right to be heard before an injunction order is issued. But in cases in which the girl has just completed 14th the court may accept evidence adduced to show that she is below 14. The appearance of the girl may also mislead the Magistrate. Even if no injunction order is actually issued the mere possibility of such an order being issued is sufficient to cause great anxiety and worry to the parties to the marriage and to the parents. Nothing can be more distressing than the idea of their being dragged into a Criminal Court on the eve of the marriage and an enquiry being conducted with regard to the age of the girl. For these reasons I think that this provision is likely to do more harm than good.

Further, Sir, even in the case of a public nuisance—certainly child marriage is not so harmful to the public as a public nuisance—the alleged offender has the right to move the court and get a Panchayat appointed to go into the facts of the case. There is no such provision here. The party is absolutely helpless.

With these words I strongly oppose the amendment.

MR. M. SIVATHANU PILLAI: Does the member want child marriages to be prevented or allowed?

MR. JOSEPH VITHAYATHIL: It is with a view to prevent child marriages that this legislation is enacted. Child marriage is made an offence and is punished under this Act. The law wants to prevent murder; and for that purpose the Penal Code provides for punishing the murderer. But there is no provision in the Penal Code or in any other law for injunctions being issued against intending murderers with a view to prevent murder. That does not mean that the law encourages the murder.

Sir, in these matters we have to consider the possibility of the civil right of a citizen being infringed. As I said, who is to answer for the damages done to the parties if it ultimately turns out that the bride was 14 years old on the day of the marriage, that the complaint to the Magistrate was false and that full evidence had not been taken before the injunction order was issued? It is for these reasons that I oppose the amendment.

MR. PUTHUPALLI S. KRISHNA PILLAI: There is a similar provision in the Child Marriage Restraint Act as recently amended in British India. So far as I have been able to see, there is nothing objectionable in accepting the present amendment.

In regard to my friend's objection that it is not clear as to whether it is the Civil Court or the Criminal Court that is meant I have to only refer to clause 8 of the bill as it has been amended. That makes it clear that it is only a criminal court that is meant. The court has to take evidence upon complaint made or information laid. The court has to satisfy itself on information laid before it or complaint made or

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. Puthupalli S. Krishna Pillai.]

otherwise. There cannot therefore be any misconception about the fact that it is a criminal court that is meant. It is not the Civil Court that is intended here; more expeditious remedy through the Criminal Court is proposed. As I said, there is nothing in this provision opposed to any legal principle. No Magistrate will issue an injunction on mere information that a girl to be married is under 14; certainly it will take evidence where necessary and satisfy itself as to the real age of the contracting parties.

Secondly, provision has been made for issue of notice to the parties to the marriage giving them the opportunity, before the order of injunction is issued, to convince the court that the complaint is false.

Thirdly, provision is made for the person aggrieved to apply to the court to rescind or alter any order passed by the court. In view of these three safeguards I do not think the apprehensions entertained by the honourable member Mr. Vithayathil are well founded.

MR. N. RAMAKRISNHA PILLAI: I support the amendment of Srimathi Narayani Amma. In the first place I submit that there is no room for any doubt that the expression 'Court' refers to is the Criminal courts as the basis of its jurisdiction is said to be a complaint or information.

In regard to the main objection of my friend Mr. Vithayathil all that I need submit is that the present bill does not propose to make marriages invalid; it only makes child marriage punishable. Therefore prevention of the Crime is as important as punishment of the offenders. It is in this respect different form murder or other offences in the Penal Code; which are acts wholly illegal under the law. It seems to me therefore necessary to make adequate provision for the prevention of these offences; and the amendment now proposed is a very wholesome provision especially since all the necessary safeguards have been introduced.

MR. JOSEPH VITHAYATHIL: May I ask whether there is no possibility of a Magistrate going wrong?

MR. N RAMAKRISHNA PILLAI: It is not reasonable to suppose that any Magistrate will issue an injunction order straightway on receipt of a complaint, without making the necessary enquiry, especially when it has been specifically provided that such order shall be issued only on the Magistrate satisfying himself that the complaint is well-founded. I do not deny that in very rare cases the Magistrate may go wrong; such mistakes can soon be rectified by the party interested putting in an application for cancelling the injunction order. It is open to the Magistrates to cancel orders once made.

With these words, I support the amendment.

MR. M. SIVATHANU PILLAI: As I was listening to the speech of Mr. Mathew I could not gather what his real point was? I must submit that his argument was not quite clear to me. At first he argued that the present amendment did not go far enough effectively to prevent

LIBRARY ARCHIVES Kerala Legislative Assembly

child marriages since it would only mean additional punishment for disobedience of the injunction order. Immediately after that argument he raised another objection *viz.* that the Magistrate may go wrong. Am I to take it that my honourable friend Mr. Mathew was not satisfied with the offenders under this bill being punished and that he wants child marriages to be effectively prevented? I may just point out to him that, in view of his own doubt that Magistrate are liable to go wrong, the consequence would be disastrous if marriages are effectively prevented. The present amendment avoids such serious consequences by only prescribing punishment for disobedience of the injunction order. My friend Mr. Mathew suggested.....

PRESIDENT: Honourable members are expected to know each other's names.

MR. M. SIVATHANU PILLAI: I am sorry, Sir. My friend Mr. Joseph Vithayathil pointed out that the Magistrate should be given the power to prevent child marriages effectively. Suppose that is done and it turns out later on that the girl had really completed 14 before the day of the marriage. The effective prevention of the marriage by the Magistrate would have caused serious damage and injury to the parties concerned who are really not at fault It is here in such cases the amendment now proposed is very wholesome since it stops within reasonable limits. I was really surprised at my friend referring to the provision in the Penal Code regarding the matter of punishment. Sir, the object of punishment is to deter people from committing offences. That is so in the present enactment also. This amendment is intended as a further deterrent to the provision already contained in the bill. I do not feel why my friend Mr. Vithayathil has thought it fit to object to this amendment.

SRIMATHI T. NARAYANI AMMA: Since sufficient safe-guards have been provided for, in this amendment, I do not think there is any justification for such forebodings as those of the honourable member who has opposed the amendment. The same amendment has been passed in the Imperial Assembly after prolonged debate and mature deliberations and experience in British India shows that it is a very useful provision. I therefore press the amendment.

The amendment was put to vote and carried.

PRESIDENT: At an earlier stage it was decided to take up amendment No. 5 after this amendment was disposed of as it is a consequential amendment.

SRIMATHI T. NARAYANI AMMA: Sir, I beg to move the following amendment:

> In clause 2 sub-clause (c), between the words "is" and "thereby", the words "or, is about to be" shall be inserted.

PRESIDENT: It is a consequential amendment.

SRIMATHI T. NARAYANI AMMA: Yes, Sir. Its object is obvious *viz.*, to include marriages about to be performed also within the scope of the bill.

LIBRARY ARCHIVES Kerala Legislative Assembly

SRIMATHI DEVAKI ANTHARJANAM: I second it.

The amendment was put to vote and carried.

The question that clause 10 as amended do form part of the bill was put to vote and carried.

The clause was added to the bill.

MR. P. S. NILAKANTA AIYAR: Sir, I beg to move the following amendment:

"11 (i) Whoever being above fifty years of age contracts a marriage with a minor shall be punishable with imprisonment of either description which may extend to seven years and shall also be liable to fine.

11 (ii) Any person who performs, conducts or directs such marriage and the person in charge of such minor under circumstances referred to in Section 5 and Section 6 (1) respectively shall be punished with imprisonment of either description which may extend to seven years and shall also be liable to fine.

PRESIDENT: Fixing the age of a person between 45 and 55 is rather very risky.

MR. P. S NILAKANTA AIYAR: I submit, Sir, that my amendment is absolutely necessary since it advances further the object for which the present measure is being enacted.

PRESIDENT: Does the honourable member realise the significance of this amendment. Suppose a senile person over fifty contracts a marriage; the marriage is *a fait accompli*, and the husband goes to the jail for 7 years. What is to happen to the girl? (*Laughter*)

MR. P. S. NILAKANTA AIYAR: There have been many unfortunate instances of old men contracting marriages with minor girls and leaving child widows absolutely helpless with a number of children to maintain.

MR. PUTHUPALLI S. KRISHNA PILLAI: I rise to a point of order. Sir, the word 'child' has been defined in this bill as a girl under 14 or under 16, and the object of this bill is to restrain child marriages. The present amendment deals with the marriage of minor girls which includes also girls between the ages 14 and 18. That, I submit, is beyond the scope of the bill. The amendment therefore is out of order.

PRESIDENT: About girls between 14 and 16? The amendment will be in order so far it relates to them.

MR. PUTHUPALLI S. KRISHNA PILLAI: It is not the purpose of the bill to deal with girls above 14.

PRESIDENT: Apart from all that, the honourable member I am sure, will be the first to perceive that the difficulties in the way of the provision he contemplates are very serious, and if really he wants such a provision he should bring in a separate bill. Let us just contemplate for a moment the result of such a provision as he now brings forward. A Gentleman above fifty marries a girl of, let us say, fifteen and marriages under Hindu Law once they are performed according to certain

LIBRARY ARCHIVES Kerala Legislative Assembly

rates, are sacraments and cannot be ended by divorce or by any other similar means. Now, what would happen to such marriages? The old husband would go to the jail for seven years and the young girl between 14 and 18 would be waiting outside for the old man to get older and older inside the jail (*Laughter.*) I hope the honourable member will realise that. Does he really press the amendment?

MR. P. S. NILAKANTA AIYAR: No Sir, I do not press it.

SRIMATHI T. NARAYANI AMMA: Sir, I beg to move that the bill a amended by this House be now passed.

MR. PUTHUPALLI S. KRISHNA PILLAI: I object, Sir. A number of amendments have been passed and it is not safe that we proceed with the third reading forthwith.

PRESIDENT: The Legal Remembrancer is right. It very often happens that in form and language many of the amendments are not quite accurate. It is better that the law officers of the Government are given some time to put this amendment in proper form. After all we have only about a month more for the next meeting of this House. The bill can be passed at our next meeting.

SRIMATHI T. NARAYANI AMMA: Yes Sir.

THE TRAVANCORE AGRICULTURISTS' RELIEF ACT (*Amendment*) BILL.

MR. JOSEPH VITHAYATHIL: In view of the steps taken by the Government in the matter I would request, Sir, that the bill be postponed.

MR. T. P. VELAYUDHAN PILLAI: Since the bill has not yet been introduced no postponement arises now.

PRESIDENT: What Mr. Vithayathil says is that that business on the agenda may be postponed.

The question of the postponement of the bill was put to vote and carried.

THE TRAVANCORE CHITTIES ACT (*Amendment*) BILL.

MR. E. P. VARGHESE: Sir, I beg leave to introduce the Travancore Chitties Act (Amendment) Bill.

MR. KOTTALIL P. ABRAHAM: I second it.

MR. N. R. KRISHNAN: ഞാൻ ഈ ബില്ലിനെ എതിർക്കുന്നു. സാമ്പത്തികാധഃപതനംകൊണ്ടു് ബുദ്ധിമുട്ടുന്ന ഈ അവസരത്തിൽ ചിറാളരെ സഹായിക്കുന്നതിനു കൊണ്ടുവന്നിട്ടുള്ളതാണു ഇതു്. ചിറാളർക്കു ഗുണകരമായ പല സംഗതികളും ഇപ്പോൾ നിലവിലിരിക്കുന്ന നിയമത്തിൽത്തന്നെയുണ്ടു്. ആ സ്ഥിതിക്കു വീണ്ടുംവീണ്ടും ഇങ്ങനെ നിയമം ഉണ്ടാക്കേണ്ട ആവശ്യമില്ല. ചിട്ടിറഗുലേഷൻ ർൻ-ാംവകുപ്പിൽ ഇങ്ങനെ പറയുന്നു.

LIBRARY ARCHIVES Kerala Legislative Assembly